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Welsh & Katz, Ltd.
120 South Riverside Plaza
22nd Floor
Chicago,, IL 60606

EXAMINER

SHELEHEDA, JAMES R

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/515,118
Filing Date: February 24, 2000
Appellant(s): WACHTFOGEL ET AL.

MAILED

SEP 12 2007

Technology Center 2600

L. Friedman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/09/07 appealing from the Office action mailed 01/25/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,177,931	Alexander	01-2001
6,377,745	Akiba et al.	04-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 132, and 134-136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al (US 6177931) in view of Akiba et al. (US 6377745).

Claim 132, Alexander teaches a receiver-decoder (inherently in order to provide Ads and EPG, as shown in Fig. 1) for use with a broadcast system having a headend for broadcasting program material with commercials (inherently) and a multiplicity of receiver-decoders at a user locations (inherently), the receiver-decoder comprising a receiver for receiving the program material being broadcast; and

A commercial unit (Col. 33, lines 8-Col. 35, lines 2) for dealing with the commercials based at least partially on past viewing thereof, wherein the receiver-decoder deals with the commercials by determining conditions pursuant to which they are viewed by a user,

And the receiver-decoder deals with the commercials by one of the following:

Determining conditions pursuant to which viewing of the commercials may be obviated independently of user action (Alexander utilizes of viewer profile information to provide customized presentation of advertising to the viewer Col. 26, lines 57-Col.27, lines 7; Col. 32, lines 35-48. In view of that, Alexander clearly obviates commercials that do not fit viewer profile and independently of user action); and

Determining conditions pursuant to which viewing of the commercials is obviated by user action.

Alexander does not specifically discloses "Dealing with the commercials, wherein, for at last one of the commercials, the dealing with the commercials comprises dealing with the one commercials by presenting alternative shortened versions of other commercials in response to a user request to view the one commercial in a FF or Fast-backward mode."

Akiba discloses the receiver-decoder deals with the one commercial by presenting a shortened version of said one commercial in response to a user request to view said program material in a fast-forward. If the FF function is not deactivated by the user, the system keeps presenting to user following commercials in sequence, one after the others (for example during a presentation of a series of commercials during a commercial break, if the user requests a fast-forward mode during the displaying of commercials right after the commercial break is detected by the system. In view of that Akiba system clearly generates/reproduces an alternative version of the series of presenting commercials by manipulating the

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reproduction of frames of the series of presenting commercials in a manner to obtain a reproduction of the presenting series of commercials in the FF mode that suppresses the viewer's eye strain; Col. 12, lines 53-Col. 13, lines 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Alexander with Akiba so to control the reproduction speed of which the video data are read out successively at a predetermined read out interval thereby suppress the user's eye strain with efficient retrieval of the video data, i.e., display commercials in a shorted version.

Claim 134, Alexander in view of Akiba further discloses wherein the alternative versions of other commercials comprise prepared meaningful shortened versions of a full commercials(reads on Akiba FF version of commercials that suppress the user's eye strain with efficient retrieval of the video data, as discussed in claim 132. Indeed, Akiba FF version of commercials is meaningful to viewer because not all frames are suppressed).

Claim 135, Alexander in view of Akiba further discloses wherein each alternative shortened version has a duration of approximately three seconds (Since, Akiba' commercial FF version is a short version of a commercial. Thus, it is obvious that the Akiba 's commercial FF version is approximately to three second!)

Claim 136, Although Alexander in view of Akiba fails to teach a duration of exactly 3 seconds, Alexander in view of Akiba does teach that a short commercial could be presented. Since one of ordinary skill would realize that commercials are often under 30 seconds, therefore it would have been obvious to make commercials 3 seconds or 5 to allow for viewers to see a product or logo without getting time to become bored or annoyed.

(10) Response to Argument

Claims 132, 135 and 136

On pages 3-4, of appellant's brief, appellant argues that neither of the two references discloses presenting *other* commercials in response to a user request with respect to at least one of the commercials.

In response, as indicated in the rejections, Alexander discloses transmitting television programming with a plurality of commercials. Alexander fails to specifically disclose "Dealing with the commercials, wherein, for at least one of the commercials, the dealing with the commercials comprises dealing with the one commercials by presenting alternative shortened versions of other commercials in response to a user request to view the one commercial in a FF or Fast-backward mode."

Akiba discloses a receiver which will output a shortened version of a commercial by only outputting some of the corresponding video frames of the commercial (column 12, line 54-column 13, line 20).

The combination of Alexander and Akiba discloses "Dealing with the commercials, wherein, for at least one of the commercials, the dealing with the commercials comprises dealing with the one commercials by presenting alternative shortened versions of other commercials in response to a user request to view the one commercial in a FF or Fast-backward mode", as when a user presses the fast forward key to increase the playback speed (as seen in Akiba), the system will then output shortened versions of the individual commercials within the program.

Thus, at the beginning of a typical commercial break, when a user presses the fast forward button during the first commercial (the *one* of said commercials), the system will then generate an alternative shortened version of the commercial. As the system continues to browse through the break in fast-forward mode, additional alternative shortened versions of the next occurring commercials are then generated and displayed. In response to the user request to view the one commercial in fast forward (a single depression of the fast forward button) the system generates and displays a plurality of alternative shortened versions of commercials. These include a shortened version of the first commercial and of other commercials (the commercials occurring after the first commercial).

Thus, appellant's arguments are not convincing, as the combination of Alexander and Akiba clearly meet the broad claim limitations.

On page 4, of appellant's brief, appellant argues that the "other commercials" must be different then the at least one of the commercials that the user has requested to view in fast-forward mode.

In response, it is noted that the system as disclosed in appellant's specification indicates when that a request is entered to view a program in fast-forward mode, **a** shortened version of a full commercial is displayed (page 32, lines 20-27).

This first shortened commercial is **not** specifically defined as being of an other commercial.

Upon continued *browsing* through the program, additional shortened versions of other commercials may follow the first (page 32, lines 20-27).

As indicated above, the combination of Alexander and Akiba disclose wherein shortened versions of the first commercial **and other** commercials (commercials occurring after the first) are displayed during fast forward play-back. Thus, the presentation of the next occurring commercials in shortened form clearly meet the current claimed limitations.

On page 4, of appellant's brief, appellant argues that Akiba's displaying of additional commercials in fast-forward would not be in response to a user request to view the first commercial in fast-forward, as it would be in response to the user continuing in fast-forward mode for the rest of the commercials.

In response, Akiba discloses wherein a user will enter a CM skip mode to fast-forward through commercials (column 12, line 44-column 13, line 20). This fast-forward mode continues until the user instructs the system to stop (column 13, lines 21-27).

Thus, in response to the user entry of the fast reproduction request during the first commercial, a plurality of shortened versions are presented. As the user command would be a request to fast-forward through the first commercial (the one) and the subsequent commercials, it meets the current claim limitation.

Furthermore, as indicated above, it is noted that the system as disclosed in appellant's specification indicates that when a request to view a program in fast-forward mode is entered, *a* shortened version of a full commercial is displayed (page 32, lines 20-27).

Upon continued *browsing* through the program, additional shortened versions of other commercials may follow the first (page 32, lines 20-27). The user request is not a "skip one commercial" command as appellant suggests, but merely a fast-forward command. Continued browsing through the program, as similarly done by Akiba, would present additional shortened commercials.

On pages 4-5, of appellant's brief, appellant argues that Akiba's displaying of additional commercials in fast-forward could not be the claimed "other commercials".

In response, it is noted that the claim requires that "for at least one commercial, said dealing with said commercials comprises presenting alternative shortened versions of other commercials...".

The presented shortened versions are “other” than the “at least one commercial”, as the shortened versions are of the subsequent commercials occurring after the first, thus clearly meeting the required claim limitations.

Furthermore, as again seen in appellant’s specification, when a request to view a program in fast-forward mode is entered, **a** shortened version of a full commercial is displayed (page 32, lines 20-27).

Upon continued *browsing* through the program, additional shortened versions of other commercials may follow the first (page 32, lines 20-27).

The additional shortened versions of *other* commercials are **not** indicated as specifically being “other” than the commercials contained within the program stream. The additional shortened versions are simply different commercials than the first shortened commercial. There is not specific support for the shortened versions of the commercial necessarily being “other” or different from commercials within the broadcast itself. As the user browses the program, the user is simply presented with a plurality of different commercials in shortened form.

Thus, Alexander and Akiba clearly meet this limitation.

On page 5, of appellant's brief, appellant argues that shortened versions must be of different commercials than the ones which the user requested to view in fast-forward or fast-backward mode.

In response, it is noted that claims merely require the presentation of shortened versions of other commercials in response to a user request to view **one** commercial in fast forward mode.

Thus, as a user presses fast forward during the first commercial within a commercial break, all of the subsequent commercials are then shortened.

A shortened version of the same commercial (the first) is presented, and then shortened versions of subsequent commercials are presented.

There is no requirement that **all** of the shortened versions be different than **all** of the ones selected to be fast-forwarded. Having some of the shortened versions be different from the one commercial (the first), as performed by Akiba, clearly meets the claim limitations.

Furthermore, as again seen in appellant's specification, when a request to view a program in fast-forward mode is entered, **a** shortened version of a full commercial is displayed (page 32, lines 20-27). This first shortened is not defined as being different or "other" than the original commercial (page 20, lines 20-24).

Upon continued *browsing* through the program, additional shortened versions of other commercials, different than the first shortened commercial, may follow (page 32, lines 20-27).

Thus, Alexander and Akiba clearly meet this limitation.

On pages 5-6, of appellant's brief, appellant argues that Akiba pertains to all video and does not specifically teach shortened commercials.

In response, Akiba clearly discloses wherein a full length commercial will be displayed in a fast-forward mode but only display a shortened portion of the full commercial (column 12, line 46-column 13, line 20). This clearly meets the claim limitations.

On pages 6-7, appellant argues that there is no reason to combine Alexander and Akiba as neither address dealing with user request to view a commercial in fast-forward/backward mode.

In response, as indicated previously, Alexander discloses a receiver system providing video programming with advertisements.

Akiba discloses a system wherein a user may indicate a desire to fast-forward the video signal and thus produce shortened versions of commercials (column 12, line 40-column 13, line 20). The user may choose to fast-forward at any time, and this specifically includes during commercials (as specific instructions are in place for handling commercial fast-forward; column 12, line 40-column 13, line 20). Thus, Akiba clearly discloses a user request to view a commercial in fast-forward/backward mode. While user requests to view other video in fast-forward mode may also be received and utilized in the system, Akiba specifically discloses a user request to view a commercial in fast-forward mode, as required by the claim.

Thus, the combination of Alexander and Akiba provides a user with a means to fast-forward and view shortened versions of commercials.

Claim 134

In response to appellant's arguments on pages 7-8, in regards to presenting shortened versions of ***other*** commercials, please see above in regards to claim 132.

On pages 7-8, appellant argues that the fast-forward versions of Akiba are not prepared meaningful commercials.

In response, Akiba clearly discloses wherein frames from the commercials will be prepared and displayed to the user (column 13, lines 11-20). This is performed so as to a discontinuous and unsatisfactory appearance of the video (column 13, lines 16-20). Thus, the displayed shortened versions are clearly *meaningful*, as they serve as specific function and purpose, i.e. preventing a discontinuous and unsatisfactory appearance.

While appellant argues that these shortened commercials would not convey the intended commercial message, it is noted that this is not required by the claims. There is no specific indication as to how or why the commercials are meaningful. Akiba clearly provides for *meaningful* commercials as they are displayed in shortened form to serve a specific purpose. Appellant's arguments in regards to a specific desired meaning, i.e. conveying an intended commercial message or a recognizable logo, are not required by the claim language. The claims merely require "meaningful" commercials, which Akiba clearly provides.

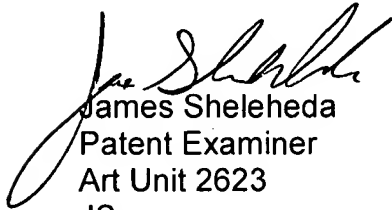
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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

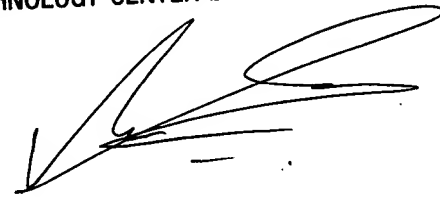

James Sheleheda
Patent Examiner
Art Unit 2623
JS

Conferees:

Chris Kelley

Vivek Srivastava


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600


VIVEK SRIVASTAVA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600